

Senate File 2349 - Reprinted

SENATE FILE _____
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2233)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the preneed sale of cemetery and funeral
2 merchandise and funeral services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5542SV 82
5 av/sc/8

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1 1 Section 1. Section 523A.102, subsection 27, Code
2 Supplement 2007, is amended to read as follows:
1 3 27. "Seller" or "preneed seller" means a person doing
1 4 business within this state, including a person doing business
1 5 within this state who sells insurance, who advertises, sells,
1 6 promotes, or offers to furnish cemetery merchandise, funeral
1 7 merchandise, funeral services, or a combination thereof when
1 8 performance or delivery may be more than one hundred twenty
1 9 days following the initial payment on the account whether the
1 10 transaction is completed or offered in person, through the
1 11 mail, over the telephone, by the internet, or through any
1 12 other means of commerce. "Seller" or "preneed seller"
1 13 includes any person performing any term of a purchase
1 14 agreement executed within this state, and any person
1 15 identified under a burial account as the provider of cemetery
1 16 merchandise, funeral merchandise, funeral services, or a
1 17 combination thereof. "Seller" or "preneed seller" does not
1 18 include a person who has an ownership interest in a seller or
1 19 preneed seller but who is not actively engaged in advertising,
1 20 selling, promoting, or offering to furnish such cemetery
1 21 merchandise, funeral merchandise, funeral services, or a
1 22 combination thereof.
1 23 Sec. 2. Section 523A.203, Code Supplement 2007, is amended
1 24 by adding the following new subsection:
1 25 NEW SUBSECTION. 5A. A financial institution acting as a
1 26 trustee of trust funds under this chapter shall
1 26 notify
1 27 each purchaser within sixty days from the date of
1 28 deposit confirming that a deposit has been made establishing
1 29 a trust fund for the purchaser's payments made under the
1 30 purchase agreement.
1 31 Sec. 3. Section 523A.203, subsection 6, Code Supplement
1 32 2007, is amended by adding the following new paragraph:
1 33 NEW PARAGRAPH. d. Use any funds required to be held in
1 34 trust pursuant to section 523A.201 to purchase an insurance
1 35 policy or annuity.
2 1 Sec. 4. Section 523A.405, subsection 8, Code Supplement
2 2 2007, is amended to read as follows:
2 3 8. The amount of the surety bond shall equal eighty
2 4 percent of the payments received pursuant to purchase
2 5 agreements, or the applicable portion thereof, for cemetery
2 6 merchandise, funeral merchandise, funeral services, or a
2 7 combination thereof, and the amount needed to adjust the
2 8 amount of the surety bond for inflation as set by the
2 9 commissioner based on the consumer price index. The seller
2 10 shall review the amount of the surety bond no less than
2 11 annually and shall increase the bond as necessary to reflect
2 12 additional payments. The amount needed to adjust for
2 13 inflation shall be added annually to the surety bond during
2 14 the first quarter of the ~~establishment's~~ seller's fiscal year.
2 15 Sec. 5. Section 523A.501, subsection 3, paragraph a, Code
2 16 Supplement 2007, is amended to read as follows:
2 17 a. The commissioner shall request and obtain,

2 18 notwithstanding section 692.2, subsection 5, criminal history
2 19 data for any director of, or person with a financial interest
2 20 in, a preneed seller who is an applicant for an initial
2 21 license issued pursuant to this section, ~~any~~ an applicant for
2 22 reinstatement of a license issued pursuant to this section, or
2 23 ~~any~~ a licensee who is being monitored as a result of a
2 24 commission order or agreement resolving an administrative
2 25 disciplinary action, for the purpose of evaluating the
2 26 applicant's or licensee's eligibility for licensure or
2 27 suitability for continued practice as a preneed seller, as
2 28 required by the commissioner by rules adopted pursuant to
2 29 chapter 17A. The commissioner shall adopt rules pursuant to
2 30 chapter 17A to implement this section may limit this
2 31 requirement to those persons who have the ability to control
2 32 or direct control of trust funds under this chapter. The
2 33 commissioner shall inform ~~the~~ an applicant or licensee ~~of to~~
2 34 whom the criminal history requirement applies and obtain a
2 35 signed waiver from the applicant or licensee prior to

3 1 submitting a criminal history data request.
3 2 Sec. 6. Section 523A.501, subsection 4, Code Supplement
3 3 2007, is amended to read as follows:

3 4 4. The commissioner shall request and obtain a financial
3 5 history for any director of, or person with a financial
3 6 interest in, a preneed seller who is an applicant for an
3 7 initial license issued pursuant to this section, ~~any~~ an
3 8 applicant for reinstatement of a license issued pursuant to
3 9 this section, or ~~any~~ a licensee who is being monitored as a
3 10 result of a commission order or agreement resolving an
3 11 administrative disciplinary action, for the purpose of
3 12 evaluating the applicant's or licensee's eligibility for
3 13 licensure or suitability for continued practice as a preneed
3 14 seller, as required by the commissioner by rules adopted
3 15 pursuant to chapter 17A. The commissioner may limit this
3 16 requirement to those persons who have the ability to control
3 17 or direct control of trust funds under this chapter.

3 18 "Financial history" means the record of a person's current
3 19 loans, the date of a person's loans, the amount of the loans,
3 20 the person's payment record on the loans, current liens
3 21 against the person's property, and the person's most recent
3 22 financial statement setting forth the assets, liabilities, and
3 23 the net worth of the person.

3 24 Sec. 7. Section 523A.502, subsection 6, Code Supplement
3 25 2007, is amended to read as follows:

3 26 6. A sales agent licensed pursuant to this section shall
3 27 satisfactorily fulfill continuing education requirements for
3 28 the license as prescribed by the commissioner by rule.
3 29 However, this continuing education requirement is not
3 30 applicable to a sales agent who is also a licensed insurance
3 31 producer under chapter 522B or a licensed funeral director
3 32 under chapter 156.

3 33 Sec. 8. Section 523A.601, subsection 6, paragraph a, Code
3 34 Supplement 2007, is amended to read as follows:

3 35 a. A purchase agreement that is funded by a trust shall
4 1 include a conspicuous statement in language substantially
4 2 similar to the following language:

4 3 "For your prearranged funeral agreement, we will deposit
4 4 not less than eighty percent of your payments in trust at
4 5 (name of financial institution), (street address), (city),
4 6 (state) (zip code) within fifteen days following receipt of
4 7 the funds. For your protection, you ~~have the right to contact~~
4 8 will be notified within sixty days from the date of
4 9 deposit from the financial institution

4 9 directly, if
4 9 acting as a trustee of trust funds under this
4 9 chapter,

4 9 to confirm
4 10 that the deposit of these funds ~~occurred~~ has been made
4 11 establishing a trust fund as required by law. If you unable
4 12 to confirm the deposit of these funds in trust do not receive
4 13 this notification, you may contact the Iowa insurance division for
4 14 assistance by calling the insurance division at (telephone
4 15 number) or by mail at (street address), (city), Iowa (zip
4 16 code), or you may contact the financial institution by calling
4 17 the financial institution at (telephone number) or by mail at
4 18 the address indicated above."

4 19 Sec. 9. NEW SECTION. 523A.810A ELECTRONIC FILING.

4 20 The commissioner shall, by rule, develop a system and
4 21 procedures and a format for electronic filing of documents
4 22 required to be filed with the commissioner under this chapter.

4 23 Sec. 10. Section 523A.811, subsection 1, paragraph c, Code
4 24 Supplement 2007, is amended to read as follows:

4 25 c. The amount of funds currently held in trust for
4 26 cemetery merchandise, funeral merchandise, and funeral
4 27 services is less than ~~eighty percent of all payments made~~
~~4 28 under the purchase agreements referred to in the amount~~
~~4 29 required in section 523A.201, subsection 2 or 3, as~~
~~4 30 applicable.~~
4 31 SF 2349
4 32 av/sc/ml/12